

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Change of Zone #3328

DATE: ~~September 18, 2001~~

***Revised October 4, 2001

PROPOSAL: To amend Zoning Ordinance Sections 27.65.030, 27.67.040, and 27.70.020 to authorize the use of dwellings for non-related persons as part of a community unit plan and to provide minimum lot sizes and parking requirements.

CONCLUSION: The proposed text increases the range of permissible housing options by allowing four to six non-related persons to share a single housekeeping unit within an approved Community Unit Plan. The permitted population density is similar to what is allowed through a community unit plan or the underlying zoning districts.

This text change advances the Comprehensive Plan implementation strategy of providing the broadest range of housing options throughout the community.

<u>RECOMMENDATION:</u>

Approval

GENERAL INFORMATION:

CONTACT: J. Michael Rierden
645 "M" Street, Suite 200
Lincoln, NE 68508
(402) 476-2413

ASSOCIATED APPLICATIONS: Change of Zone #3329
Special Permit #1928

HISTORY: Oct. 30, 1972 City Council adopted Change of Zone #1220, which added text to allow four to six unrelated persons to live as a single housekeeping unit under a special permit. The Planning Director's report indicated that the change was intended to provide student housing.

1979

Dwellings for Nonrelated Persons was left in the “Additional Use Regulations” Chapter 27.70 instead of being moved with the other special permits to Chapter 27.63.

COMPREHENSIVE PLAN SPECIFICATIONS:

From the Future Urban Residential Needs and Plan:

Goals

- *Encourage the development of housing that is appropriate to the requirements of households with special needs, including but not limited to, the elderly, the physically and/or mentally challenged, and households in crisis.*
- *Encourage efficient use of urban areas by providing for high density residential uses as an integral part of major, planned commercial and residential developments. (p 44)*

From Comprehensive Plan Implementation Strategies:

3. Public Policy Considerations

- c. **Diversity and Unity.** In housing, a place should be found for the country estate and the city efficiency apartment, for the small private single family home and the large apartment suite, for the most affordable and most expensive dwelling unit, for completely independent living and for living within the care of others. Provision of the broadest range of housing options throughout the community improves the quality of life in the whole community. (pp 192-3)

REGIONAL ISSUES: Lincoln's ability to provide off-campus student housing

ANALYSIS:

1. According Section 27.03.220, Lincoln's definition for “family”, up to three unrelated individuals may reside together in a single dwelling unit.
2. Section 27.70.020 allows dwellings for four to six non-related persons, provided that the lot upon which they reside is one or more acres in size and that one off street parking stall is provided for each occupant.
3. The proposed text change would add “dwellings for nonrelated persons” to the list of housing types permissible within a community unit plan. Such a dwelling would no longer be permitted outside a C.U.P. One parking stall would be required per occupant, and the minimum lot area per dwelling would be based on the underlying zoning and the number of occupants, as shown on the following table.

Zoning District	Occupant/Lot Area Ratio
R-1	1 occupant/3,000 sf
R-2, R-3	1 occupant/2,000 sf
R-4	1 occupant/1,000 sf
R-5	1 occupant/750 sf

4. The density permitted is similar to what would be permitted under the base zoning or within a community unit plan. In no case could the number non-related occupants exceed those allowed in the base zoning under the definition of family.

Zoning District	Base Zoning Density		C.U.P. Density		Occupants/Acre (proposed text)
	D.U./acre	Occupants/acre [†]	D.U./Acre	Occupants/acre [†]	
R-1	4.84	14	3.87	11	14
R-2	7.26	21	5.80	17	21
R-3	7.26	21	6.96	20	21
R-4	17.42*	52	13.93	41	43
R-5	29.04^	87	29.04	87	58
[†] assumes three occupants per Dwelling Unit * assumes two-family dwellings ^ assumes multi-family dwellings					

5. In order for a property to qualify for a Community Unit Plan, the land area must be one acre or more (three or more lots, including adjacent street right of way, in the original City of Lincoln plat). If the land area of a C.U.P. is between one and five acres, the number of allowable units is reduced by 20%. If it is between five and ten acres, the number of allowable units is reduced by 10%. If a C.U.P. borders two other Community Unit Plans, there is no density reduction. Community Unit Plans must be specifically approved by City Council after public hearing.

6. The proposed language mandates one off-street parking stall per occupant of the dwelling for non-related persons. This is more off-street parking than is required in any other residential zoning district. The following chart contrasts this requirement with a standard Community Unit Plan and the base zoning district:

Zoning District	Base Zoning Required Parking	C.U.P. Required Parking	Text Amendment Required Parking
R-1	2 parking spaces per dwelling unit	2 parking spaces per dwelling unit [†]	4-6 parking spaces per dwelling unit
R-2			
R-3			
R-4			
R-5	1.75 parking spaces per dwelling unit		
[†] May be adjusted to 1.5 parking spaces per dwelling unit by City Council			

7. Unlike single and two-family dwellings in the R-1 through R-4 districts, the proposed text does not permit parking in the front yard, unless it is specifically authorized by City Council. Furthermore, the one space per occupant parking requirement may not be adjusted by City Council.
8. The purpose of this text change is to increase housing options without increasing the population density on a site.
9. Any existing buildings which currently conform to Section 27.70.020 would become nonconforming uses. The Building and Safety Department is not aware of any existing dwellings for non-related persons.
10. The proposed language creates opportunities to provide the student population with additional housing options.

Prepared by:

Jason Reynolds
Planner

1 **27.65.030 Procedures.**

2 An application and plot plan and plans for development of a community unit plan under this
3 chapter shall be filed in writing with the department of building and safety. Upon the filing of an
4 application, together with all information required by this chapter, the City Council will refer the
5 application to the Planning Commission. The Planning Commission shall hold a public hearing upon
6 such application and make a report to the City Council regarding the effect of the proposed use
7 upon the surrounding neighborhood, the community as a whole, and other matters relating to the
8 public health, safety, and general welfare. The City Council shall take no final action upon any
9 application for a community unit plan filed under this chapter until a report from the Planning
10 Commission has been filed with the City Clerk; provided, that in the event there is a delay in
11 excess of sixty days from the date of referral on the part of the Planning Commission in reporting
12 its recommendations to the City Council, the applicant may appeal to the City Council requesting
13 final action. If the City Council determines that the delay of the Planning Commission is unjustified,
14 it shall direct the commission to submit a report no later than immediately after the commission's
15 next regularly scheduled meeting.

16 The report of the Planning Commission to the City Council shall include reasons for
17 recommending approval or denial of any application and if approval is recommended, shall further
18 include specific evidence and facts showing that the proposed community unit plan meets the
19 following conditions:

20 (a) That the land surrounding the tracts for the proposed community unit plan will not
21 be adversely affected;

22 (b) That the proposed community unit plan is consistent with the intent and purpose
23 of this title to promote the public health, safety, and general welfare;

24 (c) That the buildings and land in the proposed community unit plan shall be used only
25 for single-family dwellings, two-family dwellings, townhouses, ~~or~~ multiple dwellings, or dwellings for

1 ~~non-related persons~~ and accessory uses and any other uses permitted in the zoning district in
2 which the land is located;

3 (d) That the average lot area per family within the proposed community unit plan will
4 not be less than the lot area per family required in the zoning district or districts in which the tracts
5 of the proposed community unit plan is located, except as otherwise provided in this chapter. The
6 lot area per dwelling for non-related persons shall not be less than the lot area required under
7 Section 27.70.020 for the zoning district in which the use is proposed to be located.

8 (e) If an application for the community unit plan located within a flood plain is granted
9 approval by the city, it shall not be necessary for the applicant to make an application for a special
10 permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and
11 A-57540. It shall be presumed that the applicant has received all such approvals as may be re-
12 quired by the foregoing resolutions by virtue of the city granting approval to the community unit
13 plan.

14 27.67.065 Special Conditions; Community Unit Plan and O-3 Zoning District.

15 ~~(a)~~ In a community unit plan ~~and in the O-3 zoning district~~, the following
16 parking regulations shall apply:

17 ~~(a 1)~~ Two parking spaces per dwelling unit, ~~however, except that~~
18 ~~dwelling for nonrelated persons shall have one space for each resident.~~ ‡The City
19 Council may reduce the community unit plan parking requirement to no less than one
20 and one-half parking spaces per dwelling unit, except for dwellings for nonrelated
21 persons, when the application includes information justifying the reduction;

22 ~~(b 2)~~ The location of required parking as set forth elsewhere in this
23 chapter may be adjusted by the City Council;

24 ~~(e 3)~~ All other parking requirements ~~in the O-3 zoning district or in the~~
25 district or districts in which a community unit plan is located shall apply.

1 (b) In the O-3 zoning district, the following parking regulations shall apply:

2 (1) Two parking spaces per dwelling unit, however, the City Council
3 may reduce the parking requirement to no less than one and one-half parking spaces
4 per dwelling unit when the application includes information justifying the reduction;

5 (2) The location of required parking as set forth elsewhere in this
6 chapter may be adjusted by the City Council;

7 (3) All other parking requirements in the O-3 zoning district shall apply.

8 **27.70.020 Dwellings for Nonrelated Persons.**

9 Dwellings for four to six persons not immediately related by blood, marriage, or adoption
10 and living as a single housekeeping unit ~~on lots of one acre or more in area~~ shall be permitted
11 under a community unit plan, provided that ~~one off-street parking space is supplied for each~~
12 ~~person in the housekeeping unit~~ the maximum number of persons occupying each dwelling and
13 the total number of occupants shall not exceed the following lot area ratios:

14 (a) R-1, 1 occupant/3,000 square feet of lot area;

15 (b) R-2 and R-3, 1 occupant/2,000 square feet of lot area;

16 (c) R-4, 1 occupant/1,000 square feet of lot area;

17 (d) R-5, 1 occupant/750 square feet of lot area.

18 Notwithstanding the above, the maximum density of dwellings for nonrelated persons shall
19 be subject to the overall maximum number of permitted dwelling units within the boundaries of the
20 community unit plan as calculated in accordance with Section 27.65.020, including any reduction
21 of density due to the size of the tract of land.



Rodger P Harris

10/03/2001 11:15
AM

To: Jason W Reynolds/Notes@Notes
cc: Chuck A Zimmerman/Notes@Notes, Mel E Goddard/Notes@Notes
Subject: CZ 3328 revisions to 27.67.065 & 27.70.020 language

I have reviewed the above referenced sections language changes and believe these changes address the concerns discussed in our meeting last week.



Rodger P Harris

09/20/2001 03:28 PM

To: Jason W Reynolds/Notes@Notes
cc: Chuck A Zimmerman/Notes@Notes, Mel E Goddard/Notes@Notes
Subject: CZ 3328, Dwellings for Nonrelated Persons by SP as a CUP

I have reviewed the revised text of the above referenced text change and have the following comments to offer:

1. I am not aware of any existing buildings that exist under the existing provisions of Section 27.70.020 LMC, but if they do exist, then I believe they would become non-conforming if this text is changed, or possibly may be deemed to have a special permit per Section 27.63.040 LMC.
2. In an application where a CUP or part of a CUP is for Dwellings for Nonrelated Persons, the types of buildings and a schedule showing the number of bedrooms per dwelling unit, and the occupancy per dwelling unit must be provided with the application. Any approval language should specifically approve dwellings for 4 to 6 nonrelated persons, with plans that show where or what part of the CUP allows this use.
3. The last sentence of the revised text for Section 27.70.020 LMC should be amended to simply state that the maximum density for a Dwellings for Nonrelated Persons CUP shall be subject to any reduction in density for small CUP tract size, as calculated in accordance with Section 27.65.020 LMC.
4. While this proposed text change is related to a request for a development that would become in effect student housing, other future requests may not have such relationship. Nothing in this text change proposal would prohibit requests for amendment to existing or portions of existing CUP developments, or other existing developments, for Dwellings for Nonrelated Persons.
5. The number of occupants within a dwelling unit is difficult to regulate. A dwelling, whether a single dwelling or a number of dwellings in a multiple dwelling structure, is clearly defined as to use, types of rooms and number of bedrooms, in the construction process. The number of occupants of a dwelling may change from time to time without any obvious notice of such change, particularly if the changes in the number of occupants are subtle. The cumulative changes may become evident, too many cars, etc., with then the difficulty of determining where and how to enforce regulations.

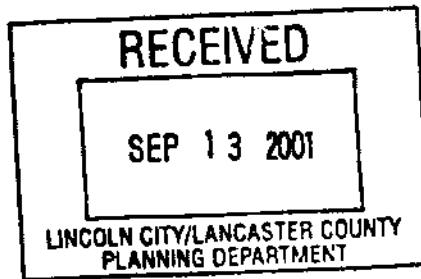
J. Michael Rierden
ATTORNEY AT LAW

✓
CZ 3329
SP 1928

KAY
JR

THE COTSWOLD
645 "M" STREET
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LINCOLN, NE 68508

TELEPHONE (402) 476-2413
TELECOPIER (402) 476-2948



September 10, 2001

Kathleen Sellman, Director of Planning
555 South 10th Street
Lincoln, Nebraska 68508

RE: Charleston Street Apartments/Student Housing

Dear Kathleen:

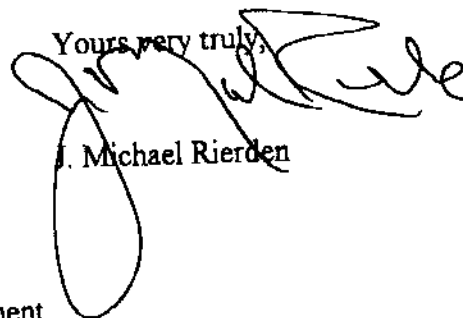
In an effort to keep you up-to-date on our efforts concerning the student housing development which we had spoken to you about several weeks ago I would like to let you know of the following progress we have made, to-wit:

1. On August 29, 2001, we met with Rich Wiese, who is President of the West O Business Association. Mr. Wiese said that the Association is fully in favor of the student housing proposal and would be providing us with a letter in support. Mr. Wiese said that the West O Business Association would also like to see this more of this type of development in the area along with other mixed uses rather than the intense industrial use which is currently zoned.
2. On August 28, 2001, we met with the Board of Directors of North Bottom Homeowners Association. Like the Business Association the Homeowners Association appeared to be in favor of the student housing proposal. There was a good discussion concerning security, parking, flood plain and other related issues. I believe that we satisfied their concerns. I have requested a letter of support from the Homeowners Association that we will present to the Planning Commission and City Council.
3. As you know, I am currently working with Jason and Rick Peo to refine the text amendment. I have received a memorandum from Rick dated September 5, 2001, with proposed language changes. In my initial review it appears that this language is satisfactory and accomplishes our goal and that it also protects existing neighborhoods.

Kathleen Sellman
September 10, 2001
Page 2

I will keep you posted of any further developments and if you should have any questions please feel free to contact me.

Yours very truly,

A handwritten signature in black ink, appearing to read "J. Michael Rierden". The signature is fluid and cursive, with a large loop at the end.

J. Michael Rierden

JMR/jdr

Pc: Paula Barrera, Dinerstein Companies
Mark Wulschleger, Director of Urban Development
Ron Ross, Ross Engineering